

AMENDED IN ASSEMBLY MARCH 26, 2009

AMENDED IN ASSEMBLY MARCH 11, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 75

Introduced by Assembly Member Huffman

(Coauthor: Assembly Member Evans)

(Coauthors: Senators ~~Harman~~ Ducheny, Harman, and Wiggins)

December 16, 2008

An act to amend Section 14166.245 of the Welfare and Institutions Code, relating to Medi-Cal, *and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 75, as amended, Huffman. Medi-Cal.

Existing law establishes the Medi-Cal program, administered by the State Department of Health Care Services, under which qualified low-income persons are provided with health care services.

Under existing law, for certain hospitals that receive Medi-Cal reimbursement from the ~~State Department of Health Care Services~~ *department* and that are not under contract with the ~~State Department of Health Care Services~~ *department* pursuant to specified existing law, interim payments and cost report settlements for inpatient hospital services provided on and after July 1, 2008, are reduced by 10%, as specified. Existing law revises the amount of these payments, beginning on October 1, 2008, pursuant to a specified formula. *Existing law exempts certain small and rural hospitals and certain open health facility planning areas from this revised formula.* Existing law, for purposes of interim payments, ~~exempts~~ *specifically provides that open*

health facility planning areas with 3 or more hospitals with licensed general acute care beds *are not exempt* from this revised formula. Existing law, for purposes of the cost report settlements, ~~exempts~~ *specifically provides that* open health facility planning areas with more than 3 hospitals with licensed general acute care beds *are not exempt* from this revised formula.

This bill would revise both of the above ~~exemptions~~ *provisions* to prohibit a state-owned or state-operated hospital from being included in determining the number of hospitals in an open health facility planning area.

This bill would revise the cost report settlement ~~exemption~~ *provision* by requiring that an open health facility planning area have 3 or more specified hospitals, instead of more than 3 specified hospitals.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ~~majority~~ ²/₃. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) The Legislature, in enacting Chapter 758 of the Statutes of
- 4 2008, intended that a state-owned or state-operated hospital not
- 5 be included in determining the number of hospitals with licensed
- 6 general acute care beds in an open health facility planning area for
- 7 purposes of the exceptions in subdivisions (b) and (c) of Section
- 8 14166.245 of the Welfare and Institutions Code.
- 9 (b) The Legislature, in enacting Chapter 758 of the Statutes of
- 10 2008, intended that the exceptions in subdivisions (b) and (c) of
- 11 Section 14166.245 of the Welfare and Institutions Code for a
- 12 hospital in an open health facility planning area both be applicable
- 13 if the open health facility planning area has three or more hospitals
- 14 with licensed general acute care beds.
- 15 (c) It is the intent of the Legislature, in enacting this bill, to
- 16 construe and clarify the meaning and effect of existing law.
- 17 SEC. 2. Section 14166.245 of the Welfare and Institutions
- 18 Code, as amended by Section 57 of Chapter 758 of the Statutes of
- 19 2008, is amended to read:

14166.245. (a) The Legislature finds and declares that the state faces a fiscal crisis that requires unprecedented measures to be taken to reduce General Fund expenditures to avoid reducing vital government services necessary for the protection of the health, safety, and welfare of the citizens of the State of California.

(b) (1) Notwithstanding any other provision of law, except as provided in Article 2.93 (commencing with Section 14091.3), for hospitals that receive Medi-Cal reimbursement from the State Department of Health Care Services and that are not under contract with the State Department of Health Care Services pursuant to Article 2.6 (commencing with Section 14081), the amounts paid as interim payments for inpatient hospital services provided on and after July 1, 2008, shall be reduced by 10 percent.

(2) (A) Beginning on October 1, 2008, amounts paid that are calculated pursuant to paragraph (1) shall not exceed the applicable regional average per diem contract rate for tertiary hospitals and for all other hospitals established as specified in subparagraph (C), reduced by 5 percent, multiplied by the number of Medi-Cal covered inpatient days for which the interim payment is being made.

(B) This paragraph shall not apply to small and rural hospitals specified in Section 124840 of the Health and Safety Code, or to hospitals in open health facility planning areas that were open health facility planning areas on October 1, 2008, unless either of the following apply:

(i) The open health facility planning area at any time on or after July 1, 2005, was a closed health facility planning area as determined by the California Medical Assistance Commission.

(ii) The open health facility planning area has three or more hospitals with licensed general acute care beds. A state-owned or state-operated hospital shall not be included in determining the number of hospitals in the open health facility planning area.

(C) (i) For purposes of this subdivision and subdivision (c), the average regional per diem contract rates shall be derived from unweighted average contract per diem rates that are publicly available on June 1 of each year, trended forward based on the trends in the California Medical Assistance Commission's Annual Report to the Legislature. For tertiary hospitals, and for all other hospitals, the regional average per diem contract rates shall be based on the geographic regions in the California Medical

1 Assistance Commission's Annual Report to the Legislature. The
2 applicable average regional per diem contract rates for tertiary
3 hospitals and for all other hospitals shall be published by the
4 department on or before October 1, 2008, and these rates shall be
5 updated annually for each state fiscal year and shall become
6 effective each July 1, thereafter. Supplemental payments shall not
7 be included in this calculation.

8 (ii) For purposes of clause (i), both the federal and nonfederal
9 share of the designated public hospital cost-based rates shall be
10 included in the determination of the average contract rates by
11 multiplying the hospital's interim rate, established pursuant to
12 Section 14166.4 and that is in effect on June 1 of each year, by
13 two.

14 (iii) For purposes of this section, a tertiary hospital is a children's
15 hospital specified in Section 10727, or a hospital that has been
16 designated as a Level I or Level II trauma center by the Emergency
17 Medical Services Authority established pursuant to Section 1797.1
18 of the Health and Safety Code.

19 (D) For purposes of this section, the terms "open health facility
20 planning area" and "closed health facility planning area" shall
21 have the same meaning and be applied in the same manner as used
22 by the California Medical Assistance Commission in the
23 implementation of the hospital contracting program authorized in
24 Article 2.6 (commencing with Section 14081).

25 (c) (1) Notwithstanding any other law, for hospitals that receive
26 Medi-Cal reimbursement from the State Department of Health
27 Care Services and that are not under contract with the State
28 Department of Health Care Services, pursuant to Article 2.6
29 (commencing with Section 14081), the reimbursement amount
30 paid by the department for inpatient services provided to Medi-Cal
31 recipients for dates of service on and after July 1, 2008, shall not
32 exceed the amount determined pursuant to paragraph (3).

33 (2) For purposes of this subdivision, the reimbursement for
34 inpatient services includes the amounts paid for all categories of
35 inpatient services allowable by Medi-Cal. The reimbursement
36 includes the amounts paid for routine services, together with all
37 related ancillary services.

38 (3) When calculating a hospital's cost report settlement for a
39 hospital's fiscal period that includes any dates of service on and

1 after July 1, 2008, the settlement for dates of service on and after
2 July 1, 2008, shall be limited to the lesser of the following:

3 (A) Ninety percent of the hospital's audited allowable cost per
4 day for those services multiplied by the number of Medi-Cal
5 covered inpatient days in the hospital's fiscal year on or after July
6 1, 2008.

7 (B) Beginning for dates of service on and after October 1, 2008,
8 the applicable average regional per diem contract rate established
9 as specified in subparagraph (A) of paragraph (2) of subdivision
10 (b), reduced by 5 percent, multiplied by the number of Medi-Cal
11 covered inpatient days in the hospital's fiscal year, or portion
12 thereof. This subparagraph shall not apply to small and rural
13 hospitals specified in Section 124840 of the Health and Safety
14 Code, or to hospitals in open health facility planning areas that
15 were open health facility planning areas on July 1, 2008, unless
16 either of the following apply:

17 (i) The open health facility planning area at any time on or after
18 July 1, 2005, was a closed health facility planning area as
19 determined by the California Medical Assistance Commission.

20 (ii) The open health facility planning area has three or more
21 hospitals with licensed general acute care beds. A state-owned or
22 state-operated hospital shall not be included in determining the
23 number of hospitals in the open health facility planning area.

24 (d) Except as provided in Article 2.93 (commencing with Section
25 14091.3), hospitals that participate in the Selective Provider
26 Contracting Program pursuant to Article 2.6 (commencing with
27 Section 14081) and designated public hospitals under Section
28 14166.1, except Los Angeles County Martin Luther King,
29 Jr./Charles R. Drew Medical Center and Tuolumne General
30 Hospital, shall be exempt from the limitations required by this
31 section.

32 (e) Notwithstanding the rulemaking provisions of Chapter 3.5
33 (commencing with Section 11340) of Part 1 of Division 3 of Title
34 2 of the Government Code, the director may implement and
35 administer this section by means of provider bulletins, or other
36 similar instructions, without taking regulatory action.

37 (f) The director shall promptly seek all necessary federal
38 approvals in order to implement this section, including necessary
39 amendments to the state plan.

(g) Notwithstanding any other provision of this section, small and rural hospitals, as defined in Section 124840 of the Health and Safety Code, shall be exempt from the payment reductions set forth in this section for dates of service on and after November 1, 2008.

(h) For hospitals that are subject to clauses (i) and (ii) of subparagraph (B) of paragraph (2) of subdivision (b) and that choose to contract pursuant to Article 2.6 (commencing with Section 14081), the California Medical Assistance Commission shall negotiate rates taking into account factors specified in Section 14083.

(i) (1) In January 2010 and in January 2011, the department and the California Medical Assistance Commission shall submit a written report to the policy and fiscal committees of the Legislature on the implementation and impact of the changes made by this section, including, but not limited to, the impact of those changes on the number of hospitals that are contract and noncontract, patient access, and cost savings to the state.

(2) On or before January 1, 2012, the department, in consultation with the California Medical Assistance Commission, shall report on the implementation of this section. The report shall include, but not be limited to, information and analyses addressing patient access, capacity and needs within the health facility planning area, reimbursement of hospital costs, changes in the number of open and closed health facility planning areas, the impact of this section on the extent of hospital contracting, and fiscal impact on the state.

(j) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that hospitals are financially able to serve California's Medi-Cal recipients at the earliest possible time, it is necessary that this act take effect immediately.